



OFFICE OF THE SECRETARY OF STATE

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09/22/2006

POLLUTION CONTROL BOARD

James R. Thompson Center 100 W. Randolph St., Ste 11-500
Dorothy Gunn
CHICAGO, IL 60601

RECEIVED
CLERK'S OFFICE

SEP 28 2006

STATE OF ILLINOIS
Pollution Control Board

Dear Dorothy Gunn

Your rules Listed below met our codification standards and have been published in
Volume 30, Issue 39 of the Illinois Register, dated 09/29/2006.

ADOPTED RULES

Rob-23

Standards and Requirements for Potable Water Supply Well Surveys and for Community Relations Activities
Performed in Conjunction with Agency Notices of Threats From Contamination

35 Ill. Adm. Code 1600

Page 15756

Point Of Contact:Erin Conley

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

Rob-16
R 06-17
R 06-18

Notice of Public Information Pursuant to 415 ILCS 5/7.2(b)

Ill. Adm. Code

Page 15831

Point Of Contact:Erin Conley

PROPOSED RULES

Tiered Approach to Corrective Action Objectives

35 Ill. Adm. Code 742

Page 15366

Point Of Contact:Erin Conley

Rob-10

If you have any questions, you may contact the Administrative Code Division at
(217) 782 - 7017.

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Tiered Approach to Corrective Action Objectives

2) Code Citation: 35 Ill. Adm. Code 742

3) Section Numbers:

Proposed Action:

742.105	Amend
742.110	Amend
742.200	Amend
742.210	Amend
742.220	Amend
742.225	Amend
742.305	Amend
742.320	Amend
742.415	Amend
742.505	Amend
742.510	Amend
742.805	Amend
742.900	Amend
742.1000	Amend
742.1010	Amend
742.1012	Amend
742.1015	Amend
742.1020	Amend
742.APPENDIX A	Amend
TABLE E	Amend
TABLE H	Amend
TABLE I	Amend
742.APPENDIX B	Amend
ILLUSTRATION A	Amend
TABLE A	Amend
TABLE B	Amend
TABLE C	Amend
TABLE D	Amend
TABLE E	Amend
TABLE F	Amend
742.APPENDIX C	Amend
ILLUSTRATION A	Amend
ILLUSTRATION B	Amend
ILLUSTRATION C	Amend
TABLE A	Amend

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SEP 7 2006

STATE OF ILLINOIS
Pollution Control Board

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NOTICE OF PROPOSED AMENDMENTS

TABLE B	Amend
TABLE C	Amend
TABLE D	Amend
TABLE E	Amend
TABLE F	Amend
TABLE G	Amend
TABLE H	Amend
TABLE I	Amend
TABLE J	Amend
TABLE K	Amend
742.APPENDIX D	New Section
742.APPENDIX E	New Section
742.APPENDIX F	New Section
742.APPENDIX G	New Section
742.APPENDIX H	New Section

- 4) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments see the Board's September 7, 2006, opinion and order in docket R06-10, Proposed Amendments to Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742). The amendments in this rulemaking are primarily designed to update standards and improve procedures under the Tiered Approach to Corrective Action Objectives (TACO) regulations, and to make numerous corrections and clarifications. The TACO regulations provide methods for developing risk-based remediation objectives to be used in environmental contamination cleanups under several regulatory programs: Leaking Underground Storage Tank (LUST) Program; Site Remediation Program (SRP); and Resource Conservation and Recovery Act (RCRA) Part B Permits and Closure Plans.

The amendments in this rulemaking include the addition of background soil levels as remediation objectives for polynuclear aromatic hydrocarbons (PAHs), newly applicable residential remediation objectives to protect construction workers, and the addition of new mandatory forms to be used for certain institutional controls. Additionally the Board is amending the incorporations by reference to reflect new or updated test methods and technical support documents.

The Board is proposing to add a new subsection (h) to Section 742.105 on TACO applicability, to clarify that landfills cannot use TACO in lieu of the procedures and requirements applicable to landfills under 35 Ill. Adm. Code 807, 811-814. The amendments also propose changes to clarify the use of Highway Authority Agreements (HAAs). These agreements are typically between the highway authority and the property

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owner. The amendments are necessary to address when a LUST owner or operator (the person who would receive the no further remediation (NFR) Letter) is not the owner of the property. In addition, the Board is proposing a new instrument as an institutional control (Highway Authority Agreement Memorandum of Agreement or HAA MOA) to address situations where the highway authority is the property owner or LUST owner or operator and contamination remains under the highway. The problem resolved by this amendment is that the highway authority cannot enter into a binding agreement with itself. The HAA MOA would be entered into between the highway authority and the Illinois Environmental Protection Agency (Agency).

Another topic that the Board is addressing in this rulemaking relates to institutional controls. In the hearings the Board held on this rulemaking prior to first notice, the Agency stated that it was aware of at least two instances where ordinances that were approved as institutional controls were later amended or repealed without notice to the Agency. Accordingly, the Board is proposing to add new requirements to alert the Agency of such actions regarding institutional control ordinances. Another amendment to the institutional controls relates to ordinances that are employed to restrict groundwater usage. The Agency testified that under the existing Section 742.320(d), an ordinance could be used to exclude the groundwater ingestion exposure route only if the ordinance effectively prohibits installing and using potable water supply wells within 2,500 feet from the source of the release. The 2,500-foot distance was originally proposed to correspond to the maximum setback zone for a community water supply well under Section 14.3 of the Act (415 ILCS 5/14.3 (2004)). However, sites near a municipal boundary cannot currently use this institutional control where the 2,500-foot radius would extend beyond the municipal boundary, and there is no such ordinance in effect beyond the municipal boundary. To address this issue, the first notice amendments propose to allow use of a groundwater ordinance for any area within the measured and modeled extent of groundwater contamination above what would otherwise be the applicable Tier I groundwater objectives.

The amendments propose to add new institutional control forms to be used by participants in regulatory programs subject to the TACO remediation objectives. These forms are based on model documents that the Agency had posted on its Web site for easy public use. The Agency stated that it would now be appropriate to codify the model documents and formally require their use.

Additionally, the amendments propose to change the existing lead soil remediation objective for the industrial/commercial and construction worker ingestion pathways from 400 milligrams per kilogram (mg/kg) to 800 mg/kg and 700 mg/kg for the industrial/commercial and construction worker ingestion routes, respectively. The

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existing remediation level is based on a child's exposure assumptions; the proposed new levels are more appropriately based on the United States Environmental Protection Agency's Adult Blood Lead Model.

- 5) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The PAH levels proposed in this rulemaking are based on two studies performed in 2001 and 2002. The first study was conducted by the City of Chicago in conjunction with the United States Geological Survey (USGS) to assess PAH levels in Chicago ambient soils. A Brownfield Redevelopment Grant was approved for the City of Chicago in July 2000 to allow for the study. The results of the study were presented by Tetra Tech Inc. in *Polynuclear Aromatic Hydrocarbon Study, City of Chicago, IL*. The second study was conducted by the Electric Power Research Institute (EPRI) in soils statewide, with the results of the study published in *Polycyclic Aromatic Hydrocarbons (PAHs) in Surface Soil in Illinois: Background PAHs*. The Board is proposing to incorporate both studies by reference in this rulemaking. The following materials were also relied on in the development of this rulemaking, and the Board is proposing to incorporate them by reference into the rule:

ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. (610) 832-9585.

ASTM D 2974-00, Standard Test Methods for Moisture, Ash and Organic Matter of Peat and Other Organic Soils, approved August 10, 2000.

ASTM D 2488-00, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved February 10, 2000.

ASTM D 1556-00, Standard Test Method for Density and Unit Weight of Soil in Place by the Sand-Cone Method, approved March 10, 2000.

ASTM D 2922-01, Standard Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth), approved June 10, 2001.

ASTM D 2937-00e1, Standard Test Method for Density of Soil in Place by the Drive-Cylinder Method, approved June 10, 2000.

ASTM D 854-02, Standard Test Methods for Specific Gravity of Soil Solids by Water Pycnometer, approved July 10, 2002.

ASTM D 2216-98, Standard Test Method for Laboratory Determination of Water

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(Moisture) Content of Soil and Rock by Mass, approved February 10, 1998.

ASTM D 4959-00, Standard Test Method for Determination of Water (Moisture) Content of Soil by Direct Heating, approved March 10, 2000.

ASTM D 4643-00, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved February 10, 2000.

ASTM D 5084-03, Standard Test Methods for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter, approved November 1, 2003.

ASTM D 422-63 (2002), Standard Test Method for Particle-Size Analysis of Soils, approved November 10, 2002.

ASTM D 1140-00, Standard Test Methods for Amount of Material in Soils Finer than the No. 200 (75 μ m) Sieve, approved June 10, 2000.

ASTM D 3017-01, Standard Test Method for Water Content of Soil and Rock in Place by Nuclear Methods (Shallow Depth), approved June 10, 2001.

ASTM D 4525-90 (2001), Standard Test Method for Permeability of Rocks by Flowing Air, approved May 25, 1990.

ASTM D 2487-00, Standard Classification of Soils for Engineering Purposes (Unified Soil Classification System), approved March 10, 2000.

ASTM D 1527-00, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, approved May 10, 2000.

ASTM E 1739-95 (2002), Standard Guide for Risk-Based corrective Action Applied at Petroleum Release Sites, approved September 10, 1995.

GPO. Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401, (202) 783-3238.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication number SW-846 (Third Edition, Final Update IIIA, April 1998), as amended by Updates I, IIA, III, and IIIA (Document No. 955-001-00000-1).

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"Methods for the Determination of Organic Compounds in Drinking Water, Supplement I", EPA Publication No. EPA/600/4-90/020 (July 1990).

"Guidance for Data Quality Assessment, Practical Methods for Data Analysis, EPA QA/G-9, QAOO Update," EPA/600/R-96/084 (July 2000). Available at www.epa.gov/quality/qs-docs/g9-final.pdf.

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600.

"Calculating Upper Confidence Limits for Exposure Point Concentrations at Hazardous Waste Sites", USEPA Office of Emergency and Remedial Response, OSWER 9285/6-10 (December 2002), PB 2003-104982.

"Exposure Factors Handbook, Vol. I: General Factors", EPA Publication No. EPA/600/P-95/002Fa (August 1997).

"Exposure Factors Handbook, Vol. II: Food Ingestion Factors", EPA Publication No. EPA/600/P-95/002Fb (August 1997).

"Exposure Factors Handbook, Vol. III: Activity Factors", EPA Publication No. EPA/600/P-95/002Fc (August 1997).

"Risk Assessment Guidance for Superfund, Vol. I: Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment) Interim", EPA Publication No. EPA/540/R/99/005 (September 2001).

"Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites", OSWER Directive 9355.4-24 (December 2002).

United States Environmental Protection Agency, Office of Environmental Information (2000). "Guidance for Data Quality Assessment, Practical Methods for Data Analysis", EPA QA/G-9, QAOO update. EPA Publication No. EPA/600/R-96-084. (Available online at www.epa.gov/oswer/riskassessment/pdf/ucl.pdf).

The following reports or studies were also used in the development of this rulemaking, but the Board is not proposing to incorporate them by reference into the rule itself:

IRIS. Integrated Risk Information System, National Center for Environmental Assessment, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive,

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MS-190, Cincinnati, OH 45268, (513) 569-7254.

Reference Dose for Chronic Oral Exposure (RfD): Acetone (CASRN 67-64-1) (July 31, 2003). Available online at www.epa.gov/iris/subst/0128.htm.

Reference Dose for Chronic Oral Exposure (RfD): Boron and Compounds (CASRN 7440-42-8)(August 5, 2004). Available online at www.epa.gov/iris/subst/0410.htm.

Reference Dose for Chronic Oral Exposure (RfD): 1,2-Dibromoethane (CASRN 106-93-4)(July 29, 2004). Available online at www.epa.gov/iris/subst/0361.htm

Reference Dose for Chronic Oral Exposure (RfD): 1,1-Dichloroethylene (CASRN 75-35-4)(August 13, 2002). Available online at www.epa.gov/iris/subst/0039.htm.

Reference Dose for Chronic Oral Exposure (RfD): Phenol (CASRN 108-95-2)(September 30, 2002). Available online at www.epa.gov/iris/subst/0088.htm.

Reference Dose for Chronic Oral Exposure (RfD): Xylenes (CASRN 1330-20-7)(File first online September 30, 1987, last revised February 21, 2003). Available online at www.epa.gov/iris/subst/0270.htm.

United States Environmental Protection Agency, Office of Air and Radiation (1999). "Understanding Variation In Partition Coefficient, K_d, Values. Volume II: Review of Geochemistry And Available K_d Values For Cadmium, Cesium, Chromium, Lead, Plutonium, Radon, Strontium, Thorium, Tritium (³H), And Uranium" EPA Publication No. EPA/402/R-99-004B August 1999.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2004)].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed

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rulemaking: The Board will accept written public comment on this proposal for 45 days after the date of publication in the Illinois Register. Comments should reference Docket R06-10 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order by calling Dorothy Gunn at 312-814-3620, or download from the Board's Web site at www.ipcb.state.il.us.

For more information contact Richard McGill at 312/814-6983 or email at mcgillr@ipcb.state.il.us.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking would impact any small businesses, small municipalities and not for profit corporations participating in regulatory programs subject to TACO remediation objectives.
 - B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not impose additional bookkeeping requirements beyond those already required by the existing rules. The amendments do propose new forms to be used in conjunction with certain institutional controls: HAA, HAA MOA, Environmental Land Use Control (ELUC), and Memorandum of Understanding (MOU). The forms are found in the proposed new TACO Appendices D (HAA), E (HAA MOA), F (ELUC), and H (MOU) and are cross-referenced in the rule text.
 - C) Types of Professional skills necessary for compliance: No professional skills beyond those currently required by the existing state regulations applicable to affected sources will be required.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2006

The full text of the Proposed Amendments begins on the next page: